

BEFORE THE UNITED STATES PATENTS AND TRADEMARKS OFFICE

Inventor: Stephen Fitzgerald et al

Serial No: 10/672,060

Filed: 29 September 2003

Title: TUBULAR BASEBALL BATS WITH VARIABLE BARRELS

Confirm. No.: 4727

Art Unit: 3711

Our File: CECOM-04.US

December 13, 2004

The Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL  
- 37 C.F.R. 1.102(c) -

The applicant petitions to have the examination of the above application made special on the basis of the poor and uncertain health of a key inventor and instructing individual, as set-forth in the Declaration of Terrance Sutherland delivered herewith.

It is believed that no fee is required in the circumstances.

Respectfully submitted,

Stephen Fitzgerald et al

per \_\_\_\_\_

David J. French

Reg. No. 31229

P.O. Box 2486, Stn. D,  
Ottawa, Canada L1P 5W6  
Telephone: 613-567-7824 x232 x231  
Telefax: 613-567-4689



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The Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Declaration  
Petition to Make Special  
- 37 CFR 1.102(c) -

1. I am the Terrence Sutherland named as one of the co-inventors in respect of the above the application. I am presently 60 years old. I am also the President of C E Composites Inc., the beneficial owner of rights in the aforesaid invention. I have had many years experience in the baseball industry. Within my company, I am responsible for research and development. I have filed a number of patent applications and am experienced in the patenting process. As such, I initiated and participated in the drafting of the original application filed for this invention as the principle co-inventor so involved. I look forward to supporting my patent attorney in order to carry-through with the prosecution of this application.

2. I have been diagnosed as having prostate cancer and am shortly due to have surgery. I have been advised by my physician that the outcome of my medical treatment, while favorable, is not certain. I have in the past worked closely with my patent attorney in the prosecution of patent applications. If my health does not

return to a full standard after my surgery, I may be unable to provide complete assistance to my patent attorney in prosecuting the above application.

3. Attached as Exhibit A. is a copy of a letter which I have been provided by my physician addressing my prospective physical condition.

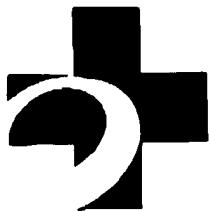
4. Accordingly, I have prepared this affidavit in support of a petition to have this application made special so that it may be taken out of order and examined of an early day.

5. I HEREBY declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated at Ottawa, Canada on November 24, 2003.



Terrance William Sutherland



**The Ottawa Hospital | L'Hôpital d'Ottawa**



*EXHIBIT "A"*

November 15, 2004

**Re: Terry Sutherland  
DOB: 1944/03/14**

To Whom It May Concern:

Mr. Sutherland has recently been diagnosed with prostate cancer. The plan for treatment of his cancer is radical surgery to be performed on December 1, 2004. Overall his long term prognosis is very good. However, there remains a distinct possibility that he will require further therapy following the surgery. This can be in the form of radiation therapy or hormonal therapy or some combination thereof. Mr. Sutherland will certainly be completely off work for 6-8 weeks. Thereafter, the need for further treatment modalities will be and further time off work will be assessed on an ongoing basis. If further treatment is required, it can last several years and if that occurs Mr. Sutherland's ability to carry out his employment duties would become more severely limited and it potentially could result in the unfortunate outcome of early death from disease. If any further information is necessary, please don't hesitate to contact my office.

Sincerely,

Christopher G. Morash, M.D., FRCSC  
CGM/drr

Civic Campus Civic  
1053 av. Carling Avenue  
Ottawa, Ontario K1Y 4E9

General Campus Général  
501 chemin Smyth Road  
Ottawa, Ontario K1H 8L6

Riverside Campus Riverside  
1967 prom. Riverside Drive  
Ottawa, Ontario K1H 7W9

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